

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
CINCINNATI DIVISION

**THE KROGER CO.,**

*Plaintiff,*

v.

**THE FEDERAL TRADE COMMISSION,  
*et al.,***

*Defendants.*

No. 1:24-cv-00438-DRC  
Hon. Douglas R. Cole

**JOINT STATUS REPORT**

The parties respectfully submit this joint report on the current status of this case and anticipated next steps following the decisions in *FTC v. The Kroger Co.*, No. 3:24-cv-00347-AN (D. Or. Dec. 10, 2024), and *Washington v. The Kroger Co.*, No. 24-2-00977-9 (King Cty. Sup. Ct. Dec. 10, 2024), granting preliminary and permanent injunctions, respectively, barring The Kroger Company (“Kroger”) and Albertsons Companies, Inc. (“Albertsons”) from consummating the proposed merger. *See* Notice of Oregon District Court Decision and Washington State Court Decision, ECF No. 31.

Following those decisions, on December 13, 2024, Kroger and Albertsons each officially abandoned the proposed merger by formally withdrawing their respective premerger notification filings filed pursuant to the Hart-Scott-Rodino Act (colloquially referred to as an “HSR filing”), which parties to certain large transactions must submit to the Federal Trade Commission (“FTC”) in advance of such transactions. *See* Letter from Michael B. Bernstein, Arnold & Porter, to Premerger Notification Office, Bureau of Competition, FTC & Premerger and Division Statistics Unit, Antitrust Division, Department of Justice (Dec. 13, 2024) (letter on behalf of Kroger) (attached as Exhibit A); Letter from Edward D. Hassi, Debevoise & Plimpton, to Premerger Notification Office, Bureau of

Competition, FTC & Premerger and Division Statistics Unit, Antitrust Division, Department of Justice (Dec. 13, 2024) (letter on behalf of Albertsons) (attached as Exhibit B).

Subsequently, on December 16, 2024, the parties to the underlying Part 3 administrative proceedings—Kroger, Albertsons, and the FTC—jointly moved to dismiss the administrative complaint in full on an expedited basis. *See* Joint Motion to Dismiss, *In re Kroger Co.*, Dkt. No. 9428 (FTC Dec. 16, 2024) (attached as Exhibit C). The Commission will consider and rule upon that motion.

If and when the Commission grants the joint motion to dismiss, the parties agree they will jointly move to dismiss this case.

Dated: December 17, 2024

Respectfully submitted,

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